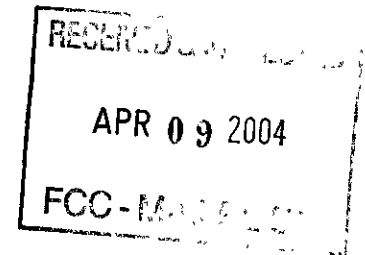


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LYNNE ABRAHAM
DISTRICT ATTORNEY



April 2, 2004

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: RM-10865/DA No. 04-700 --
Comments on the CALEA Petition for Rulemaking

Dear Secretary Dortch:

The Office of the District Attorney of Philadelphia County enforces wiretap law in the fifth largest city in the United States. Our office has conducted hundreds of wiretap investigations over the years, and we continue to help lead Pennsylvania and the nation in helping to overcome the legal and technical problems in doing electronic surveillance and searches in the digital age. As District Attorney of Philadelphia County, I submit these comments on the U.S. Department of Justice's ("DOJ"), Federal Bureau of Investigation's ("FBI"), and U.S. Drug Enforcement Administration's ("DEA") Joint Petition ("Petition") filed on March 10, 2004, before the Federal Communications Commission ("FCC") requesting that the FCC resolve, on an expedited basis, various critically important issues arising from the implementation of the Communications Assistance for Law Enforcement Act ("CALEA").

It is vitally important, and consistent with Congress's intent in enacting CALEA, that the FCC initiate a rulemaking proceeding and adopt the rules proposed by the DOJ, FBI and DEA in the above Petition. Congress enacted CALEA in 1994 to insure that law enforcement has the ability to conduct authorized wiretaps in the future as technologies changed. Since 1994, many new communications

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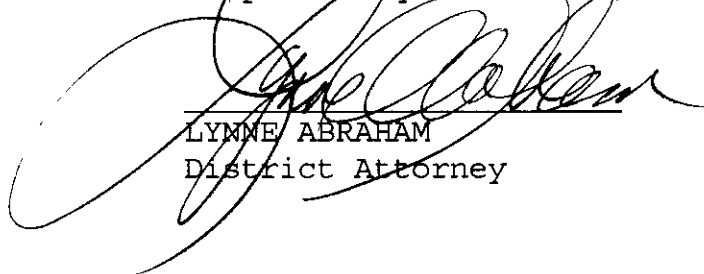
technologies have arisen, including broadband Internet access, voice over IP telephony ("VoIP"), push-to-talk digital dispatch services, and other packet mode services. These services, currently used by millions of American citizens, pose a great challenge to state and local law enforcement in that many such providers of these communications services have failed to voluntarily adopt currently available CALEA intercept solutions. Thus, law enforcement has been thwarted in its attempts to implement a lawfully authorized surveillance intercepts. Voluntary industry compliance with CALEA does not work.

Our office routinely runs into problems implementing lawfully obtained surveillance orders. Communications providers have made technical arguments that new technologies do not fall within existing law, and have claimed that they do not have the capacity to honor our orders. A variant of the latter claim is that many providers charge our office exorbitant fees for services, those presenting us with a Hobson's choice of whether to perform the surveillance at a very high price or forego it to stay within budget and thereby lose valuable investigative information.

Furthermore, state and local law enforcement do not have the financial or personnel resources to develop costly ad hoc surveillance solutions for each new communications service. Nor should they have to under the current law. For all equipment, services, and facilities deployed after January 1, 1995, Congress, through CALEA, expressly passed the burden of designing and paying for such surveillance solutions onto the telecommunications carriers themselves.

Given the importance of the issues discussed above, it is important that the FCC promptly act upon the Petition and commence a rulemaking proceeding adopting the DOJ's, DEA's and FBI's proposed rules.

Respectfully submitted,



LYNNE ABRAHAM
District Attorney